

AMENDED IN ASSEMBLY MARCH 8, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1669

Introduced by Assembly Member Roger Hernández

January 15, 2016

An act to amend Sections 1070 and 1071 of, and to amend the heading of Chapter 4.6 (commencing with Section 1070) of Part 3 of Division 2 of, the Labor Code, relating to employment.

LEGISLATIVE COUNSEL’S DIGEST

AB 1669, as amended, Roger Hernández. Displaced employees: ~~solid waste collection and transportation services contracts; service contracts; collection and transportation of solid waste.~~

Existing law requires a local government agency letting a public transit service contract out to bid to give a bidding preference for contractors and subcontractors who agree to retain for a specified period certain employees who were employed to perform essentially the same services by the previous contractor or subcontractor. Such a contractor or subcontractor must offer employment to those employees, except for reasonable and substantiated cause. Existing law requires a successor contractor or subcontractor that determines that fewer employees are needed than under the prior contract to retain qualified employees by seniority within the job classification. The existing contractor must provide prescribed information regarding employment under the existing service contract to the awarding authority, any entity that the awarding authority identifies as a bona fide bidder, and the successor contractor.

This bill would ~~add employees of solid waste collection and transportation contractors and subcontractors to those provisions; make these provisions applicable to contracts for the collection and~~

transportation of solid waste. By requiring local agencies to give a bidding preference *under these provisions* to those contractors and ~~subcontractors~~, *subcontractors for the collection and transportation of solid waste*, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The heading of Chapter 4.6 (commencing with
2 Section 1070) of Part 3 of Division 2 of the Labor Code is amended
3 to read:

4

5 CHAPTER 4.6. PUBLIC TRANSIT ~~SERVICE CONTRACTS AND SOLID~~
6 ~~WASTE CONTRACTS FOR THE COLLECTION AND TRANSPORTATION~~
7 ~~SERVICES CONTRACTS OF SOLID WASTE~~
8

9 SEC. 2. Section 1070 of the Labor Code is amended to read:

10 1070. The Legislature finds and declares all of the following:

11 (a) That when public agencies with jurisdiction over public
12 ~~transit or solid waste collection and transportation services~~ *services*
13 *or the collection and transportation of solid waste* award contracts
14 to operate bus and rail services, or to provide ~~solid waste collection~~
15 ~~and transportation services, to~~ *for the collection and transportation*
16 *of solid waste* to a new contractor, qualified employees of the prior
17 contractor who are not reemployed by the successor contractor
18 face significant economic dislocation as a result.

19 (b) That those displaced employees rely unnecessarily upon the
20 unemployment insurance system, public social services, and health
21 programs, increasing costs to these vital government programs
22 and placing a significant burden upon both the government and
23 the taxpayers.

1 (c) That it serves an important social purpose to establish
2 incentives for contractors who bid on public transit ~~or solid waste~~
3 ~~collection and transportation service contracts~~ *service contracts*
4 *or contracts for the collection and transportation of solid waste*
5 to retain qualified employees of the prior contractor to perform
6 the same or similar work.

7 SEC. 3. Section 1071 of the Labor Code is amended to read:

8 1071. The following definitions apply to this chapter:

9 (a) “Awarding authority” means any local government agency,
10 including any city, county, special district, transit district, joint
11 powers authority, or nonprofit corporation that awards or otherwise
12 enters into contracts for public transit ~~or solid waste collection and~~
13 ~~transportation services~~ *services or for the collection and*
14 *transportation of solid waste* performed within the State of
15 California.

16 (b) “Bidder” means any person who submits a bid to an
17 awarding agency for a public transit ~~or solid waste collection and~~
18 ~~transportation service contract or subcontract.~~ *service contract, a*
19 *contract for the collection and transportation of solid waste, or a*
20 *subcontract.*

21 (c) “Contractor” means any person who enters into a public
22 transit ~~or solid waste collection and transportation service contract~~
23 *service contract or a contract for the collection and transportation*
24 *of solid waste* with an awarding authority.

25 (d) “Employee” means any person who works for a contractor
26 or subcontractor under a contract. “Employee” does not include
27 an executive, administrative, or professional employee exempt
28 from the payment of overtime compensation within the meaning
29 of subdivision (a) of Section 515 or any person who is not an
30 “employee” as defined under Section 2(3) of the National Labor
31 Relations Act (29 U.S.C. Sec. 152(3)).

32 (e) “Person” means any individual, proprietorship, partnership,
33 joint venture, corporation, limited liability company, trust,
34 association, or other entity that may employ individuals or enter
35 into contracts.

36 (f) “Public transit services” means the provision of passenger
37 transportation services to the general public, including paratransit
38 service.

39 (g) “Service contract” means any contract the principal purpose
40 of which is to provide public transit ~~or solid waste collection and~~

1 ~~transportation~~ services *or the collection and transportation of solid*
2 *waste* through the use of service employees.

3 (h) “Solid waste” has the same meaning as defined in Section
4 40191 of the Public Resources Code.

5 (i) “Subcontractor” means any person who is not an employee
6 who enters into a contract with a contractor to assist the contractor
7 in performing a service contract.

8 SEC. 4. If the Commission on State Mandates determines that
9 this act contains costs mandated by the state, reimbursement to
10 local agencies and school districts for those costs shall be made
11 pursuant to Part 7 (commencing with Section 17500) of Division
12 4 of Title 2 of the Government Code.